

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DANIEL CASTANEDA-MARTINEZ,

Defendants.

2:08-CR-347 JCM (PAL)

ORDER

Presently before the court is petitioner Daniel Castaneda-Martinez's motion to vacate sentence pursuant to 28 U.S.C. § 2255. (Doc. #181).

Petitioner pleaded guilty without a plea agreement to conspiracy to distribute methamphetamine under 21 U.S.C. § 846 on September 30, 2009. (Doc. #99). On January 21, 2010, petitioner was sentenced to 235 months in custody. (Doc. #116). On January 27, 2010, petitioner filed a notice of appeal (doc. #121), arguing that this court erred when: (1) it denied petitioner a downward adjustment to his offense level for acceptance of responsibility; and (2) it gave petitioner an upward adjustment for reckless endangerment. (Doc. #163).

Ninth Circuit affirmed this court on both of petitioner's arguments on direct appeal. First, the appellate court found that this court did not err when it declined to grant petitioner a downward adjustment for acceptance of responsibility because petitioner had not carried his burden of clearly demonstrating acceptance of responsibility. (Doc. #163). Second, the appellate court held that this

1 court did not err when it gave petitioner an upward adjustment for reckless endangerment because
2 petitioner did not object to the presentence report's recommendation at sentencing. (Doc. #163).

3 In the present motion to vacate under § 2255, petitioner asserts three grounds for relief, all
4 of which include an allegation of ineffective assistance of counsel. (Doc. #181).

5 Petitioner filed the instant § 2255 motion through attorney David Arredondo. However, Mr.
6 Arredondo is not attorney of record in this case. Accordingly, the clerk's office issued a notice of
7 attorney action required, stating that Mr. Arredondo must file a verified petition if he wishes to file
8 in this case. (Doc. #183). To date, Mr. Arredondo has not filed a verified petition.

9 Good cause appearing,

10 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the United States file an
11 opposition or otherwise respond to petitioner's § 2255 motion by June 29, 2012. Petitioner shall file
12 a reply by July 29, 2012.

13 IT IS FURTHER ORDERED that, on or before June 15, 2012, David Arredondo show cause
14 why the motion to vacate sentence should not be denied for failure to file a verified petition.

15 DATED June 4, 2012.

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18 UNITED STATES DISTRICT JUDGE
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